



State of Wisconsin

LEGISLATIVE REFERENCE BUREAU

1 EAST MAIN, SUITE 200
P. O. BOX 2037
MADISON, WI 53701-2037

LEGAL SECTION: (608) 266-3561
REFERENCE SECTION: (608) 266-0341
FAX: (608) 264-6948

STEPHEN R. MILLER
CHIEF

April 2, 2014

MEMORANDUM

To: Representative Taylor

From: Marc E. Shovers, Sr. Legislative Attorney, (608) 266-0129

From: Joseph T. Kreye, Sr. Legislative Attorney, (608) 266-2263

Subject: Technical Memorandum to **2013 AB 872** (LRB-3911/2) by **DOR**

We received the attached technical memorandum relating to your bill. This copy is for your information and your file.

If you wish to discuss this memorandum or the necessity of revising your bill or preparing an amendment, please contact me.

MEMORANDUM

March 21, 2014

TO: Marc E. Shovers
Joseph Kreye
Legislative Reference Bureau

FROM: Michael Wagner
Michael Oakleaf
Department of Revenue

SUBJECT: Technical Memorandum on AB 872 (LRB 3911/2) – Various Income and Franchise Tax Changes

The Department has the following technical concerns with the above-referenced bill:

- The personal exemption expansion will require a worksheet or lookup table with different values based on the filing status of the claimant. As drafted, married couples will be required to perform the extra step of doubling the calculated value so that each spouse is counted in the final exemption. The extra step could be eliminated by setting a combined married exemption base amount of \$8,620 rather than providing two personal exemptions with base amounts of \$4,310.
- Several sections of the bill, including the provisions on reduction in tax rates and the manufacturing and agriculture credit, that are amended "as affected by 2013 Wisconsin Act 20," would also be affected by 2013 Act 145 (January 2014 Special Session SB1). The bill would need to be amended to reflect the changes in Act 145.
- The bill provides for a retroactive individual income tax rate reduction for the bottom tax bracket and a rate increase for the top two brackets, beginning on January 1, 2013. Presumably the bill would not be enacted before April 15, 2014, the date by which the majority of individual income tax returns are filed. This would mean that virtually every taxpayer (those filers not subject to the top rates) would be able to file a 2013 amended return to apply for a refund that reflects the lower bottom rate. At the same time, those filers subject to the increased top rates would be required to file 2013 amended returns to pay the additional tax due. Taxpayers whose net tax liability is lowered may be owed interest on the amount of the reduction, while taxpayers whose net tax liability is increased may owe interest on any amount due.
- The manufacturing and agriculture credit is required to be included in the Wisconsin taxable income for the year following the year in which the credit is computed. As a result, a claimant that computed the credit in 2013 would be required to include the credit as income on their 2014 Wisconsin income tax return. This bill repeals the statutory requirements to include the credit as income under ss. 71.05(6)(a)25. and 71.26(2)(a)11., Wis. Stats., for taxable years beginning on January 1, 2014. Is the intent of this bill to exclude the manufacturing and agriculture credit computed in 2013 from being included in Wisconsin

taxable income in 2014? If not, ss. 71.05(6)(a)25. and 71.26(2)(a)11., Wis. Stats., should not be repealed until March 15, 2019 which would be the latest date for a fiscal year taxpayer to file an amended return to claim the 2013 credit.

- Both the restoration of the prior law EITC rates and indexing of the homestead credit are applied retroactively to 2011. As such, many claimants would be able to file amended returns for 2011, 2012, and 2013 to claim an additional amount of credit. In addition, the taxpayer could be owed interest on the amount of the refund.
- Under the bill, the current law provision allowing a combined group member to share pre-2009 losses with other members of the group is repealed. The provision allowing the sharing of losses was first effective for taxable years beginning on or after January 1, 2012. Corporate groups that have filed a tax year 2012 or 2013 return and have a member or members that have shared pre-2009 losses would have to amend those returns and pay any additional tax that resulted from disallowing the shared losses plus any accrued interest back to the original due date.

If you have any questions regarding this technical memorandum, please contact Michael Oakleaf at 261-5173 or via email at Michael.oakleaf@revenue.wi.gov.

cc: Rep. C. Taylor